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June 12, 2013

Honorable A. Kathleen Tomlinson
United States Magistrate Judge
Eastern District of New York
Long Island Courthouse
100 Federal Plaza
Central Islip, New York 11722-4438

RE: Thomas Moroughan v. The County of Suffolk, et al
Index No.: CV12-0512 (JB) (AKT)

Dear Magistrate Tomlinson:

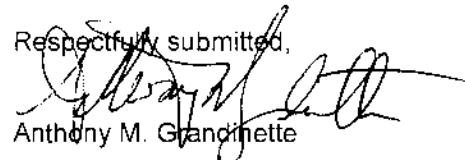
I am submitting this letter to clarify plaintiff's recent filings related to the production of the District Attorney's files in Federal Court, and to seek guidance from this Court moving forward. Because of the Confidentiality Order, I proceed with caution, and wish to make certain that I understand the Court's directives, and that no confusion exists regarding the recent filings.

On May 22, 2013, the Suffolk DA filed a motion to quash plaintiff's subpoena for the production of documents asserting grand jury and law enforcement privileges (DE 87). Plaintiff filed opposition papers on June 5, 2013 in Federal Court (DE 90). Plaintiff's opposition papers were not filed under seal. However, in plaintiff's opposition papers (DE 90), plaintiff referenced the contemporaneous filing of a State Court motion for the production of "grand jury documents" consistent with *Rutherford v. Boyle*, 879 F.Supp 247 (E.D.N.Y. 1995).

Specifically, the State Court motion was submitted to the State Court Clerk's Office with a request for sealing because it contained exhibits, such as the Nassau IAB report, as well as references to documents that are subject to the Confidentiality Order. When plaintiff filed the State Court motion, counsel requested, orally and in writing, by clearly stamping the motion "confidential", that the State Court Clerk's Office seal the file to ensure compliance with your Honor's Confidentiality Order. Likewise, plaintiff hand delivered the motion to the Suffolk District Attorney's Office and communicated directly with the Appeals Bureau, orally and in writing, clearly stamping the motion "confidential", requesting that all filings be made under seal. Thereafter, a copy of the State Court motion was dropped off at the Federal Clerk's Office as a courtesy copy for chambers. Plaintiff did not file the State Court motion on ECF, but rather hand delivered it to the Federal Court Clerk to ensure it was not inadvertently placed in the public docket. These actions were taken in the exercise of caution so as not to violate the Confidentiality Order of this Court.

Given this background, I am writing to seek clarification from your Honor if you wish plaintiff to file the State Court motion on the ECF docket, in redacted form, after conferring with my adversaries.

Respectfully submitted,


Anthony M. Grandinette

AMG/hs

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